



The City of San Diego

Staff Report

DATE ISSUED: January 22, 2020

TO: City Council

FROM: Purchasing & Contracting/Equal Opportunity Contracting Program

SUBJECT: Fiscal Year 2019 Business Diversity Annual Report

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Council District(s): Citywide

OVERVIEW:

The Purchasing and Contracting (P&C) and Public Works Departments (PWD) are pleased to provide this annual report, which provides construction, consultant, and vendor diversity participation statistics. This report also highlights programmatic activities, achievements, and goals for the future. Statistics provided in this report covers the period of July 1, 2018 through June 30, 2019.

PROPOSED ACTIONS:

This is an informational item. No action is required by the Committee or the City Council.

DISCUSSION OF ITEM:

The Small Local Business Enterprise (SLBE) Program was adopted by the City of San Diego (City) in 2010, with the intent of providing a race and gender-neutral tool¹ to help stimulate and promote the utilization of the city's local business community. Over the last nine years, the program has allowed for significant opportunities within the City's procurement of goods and services, construction, and architectural and engineering (A&E) consultant contracts. Benefits of becoming certified as an SLBE or Emerging Local Business Enterprise (ELBE) include sheltered bidding opportunities, bid discounts and preference points, as well as mandatory subcontracting participation goals specific to City certified firms in construction contracts.

¹ In compliance with Prop 209, passed by the voters in 1996 adding Article 1 section 31 of the California Constitution.

Programmatic Enhancements

The Equal Opportunity Contracting Program (EOCP), a division of P&C, has worked to further refine efforts to update elements of the SLBE Program. After conducting meetings with various stakeholder groups, such as Citizen's Equal Opportunity Commission, consultant, and construction industries; staff determined additional areas for improvement within the SLBE Program. Areas that will be enhanced include:

1. Creating a sheltered competition for A&E Consultant contracts; and
2. Revising the City's instructions for bidders completing the good faith effort (GFE) submittal requirements.

Final recommended changes to the program will be brought forward to City Council for approval during FY 2020.

Community Outreach, Involvement, and Recognition

EOCP staff attended multiple outreach events alongside our Public Agency Consortium (PAC) counterparts and the Small Business Development Center to promote the benefits of becoming certified within the SLBE program. Attachment 1 lists the various locations throughout the County where staff spent time engaging small business with the goal of increasing the number of certified firms within the program.² Ongoing outreach and the dissemination of information about our SLBE Program has helped increase the number of certified firms within the SLBE program. The SLBE program currently has 712 certified firms in various service categories.



² The table in Attachment 1 provides detailed information on the events attended, including name, purpose, and number of attendees

Mentor Programs

Staff is involved in the Calmentor³ program sponsored by Caltrans and the Construction & Commodities (C&C) Mentor Protégé program⁴ as steering committee members and pairing facilitators. The goal of both programs is to pair large established firms in the areas of professional services (architectural and engineering) as well as construction, with small, disadvantaged businesses to assist in business development. The kick-off meeting for the new cycle of C&C was held at the Harold J. Ballard Parent Center located in Council District 2.



Small Business Engagement

Aside from attending outreach events, staff spends time educating small businesses on the benefits available to firms who obtain SLBE or ELBE certification through the City. The efforts made by staff related to outreach did not go unnoticed. We are pleased to report that EOCP staff received a certificate of "Special Congressional Recognition" by Congressman Scott Peters of California's 52nd Congressional District.



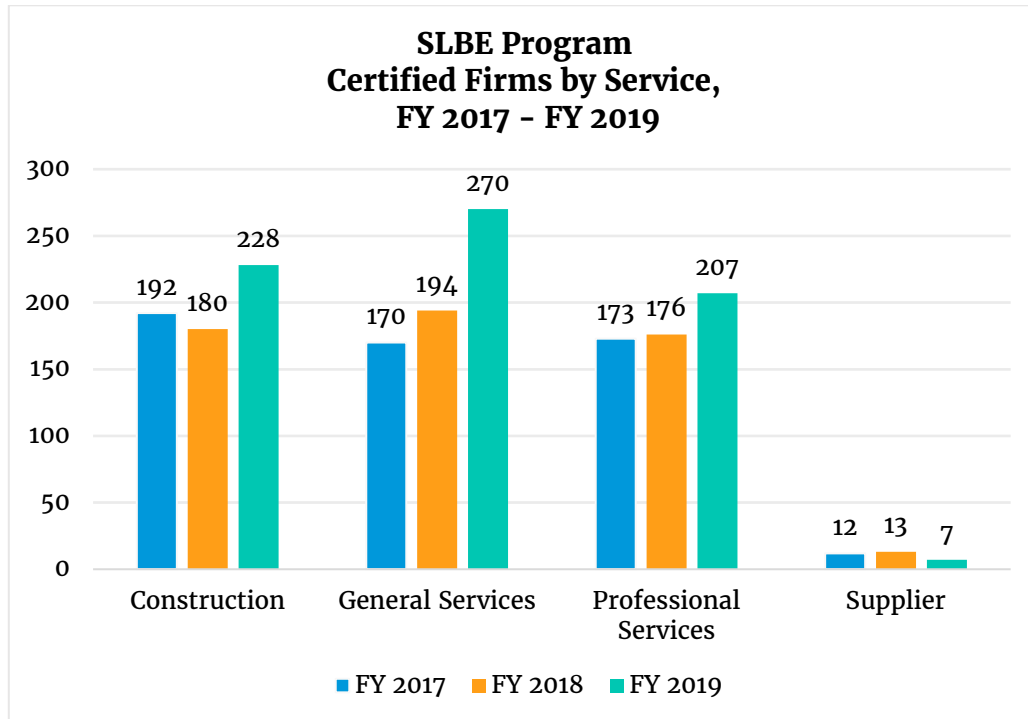
³ Information on the Calmentor program can be found here: <https://dot.ca.gov/caltrans-near-me/district-11/popular-links/calmentor/>

⁴ Information on the C&C program can be found here: <https://www.candcmentorprotege.com/>

SLBE Program: By the Numbers

The SLBE program currently has 712 certified firms in various service categories. The number of certified firms in construction, general services, and professional services has increased over the last fiscal years due to increasing the three-year income cap averages. The number of certified firms will vary at any given time – firms may choose not to renew their certification or let it lapse, exceeded the income caps at time of renewal, or elect to no longer participate in the program.

Firms seeking to become certified as a SLBE or ELBE firm must meet program eligibility requirements including income documentation⁵ and proof that the business is local. The graph below shows the number of certified firms in the SLBE program during the last three fiscal years.



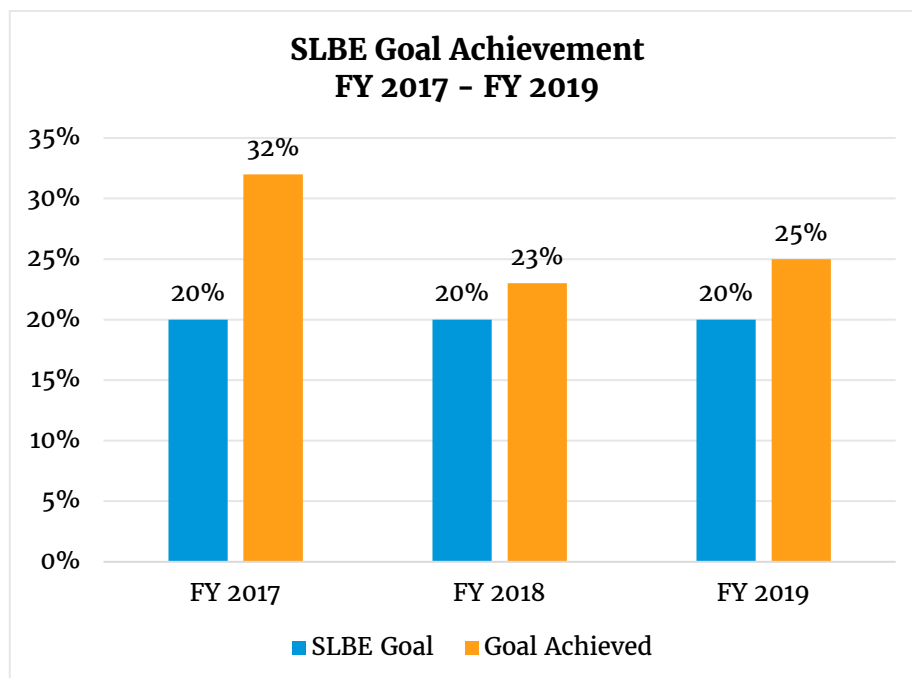
SLBE Participation Rates Continue to Exceed Goals

The overall goal established for FY 2019 remained at 20 percent SLBE participation for CIP Construction and A&E Consultant contracts. PWD continues to make every effort to package as many eligible CIP construction projects for restricted competition; sheltering and creating prime contracting opportunities for the City's certified small and emerging local businesses.

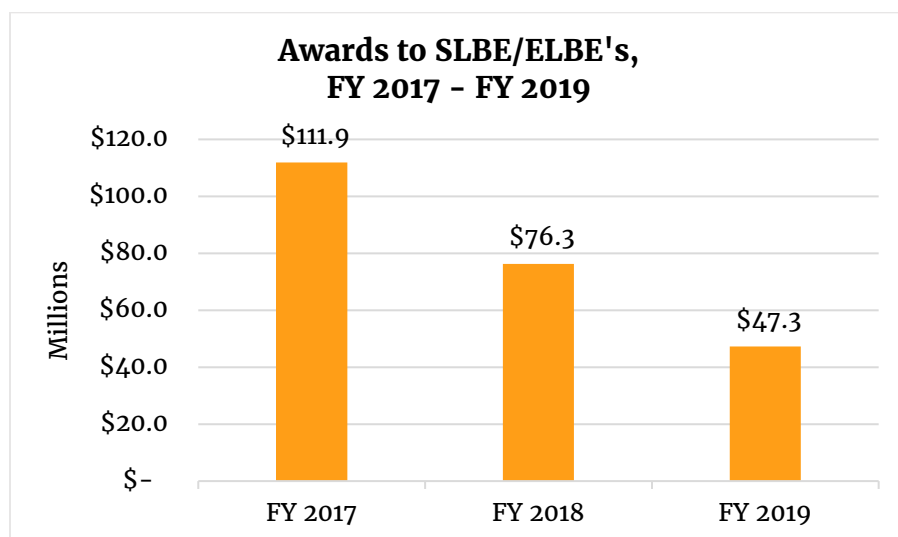
The City has exceeded the annual SLBE participation goal for another consecutive year. By engaging both internal and external stakeholders, contracting and consultant industries, and with the support of the City's executive team and Mayor, participation by SLBE/ELBE firms on CIP projects with SLBE

⁵ Income documentation requirements are automatically waived for firms certified as a Micro Business or Disabled Veteran Business Enterprise (DVBE) by the California Department of General Services (DGS).

requirements was 25 percent⁶. The graph below shows that the City exceeded the established SLBE participation goals over the last three fiscal years.



The dollar value awarded to SLBE/ELBEs has decreased from FY 2018; however, the SLBE/ELBE participation percentage is consistent with trends from FY 2017 and FY 2016. Reasons for varying amounts can be attributed to project type and funding sources, which is explained later in this report.

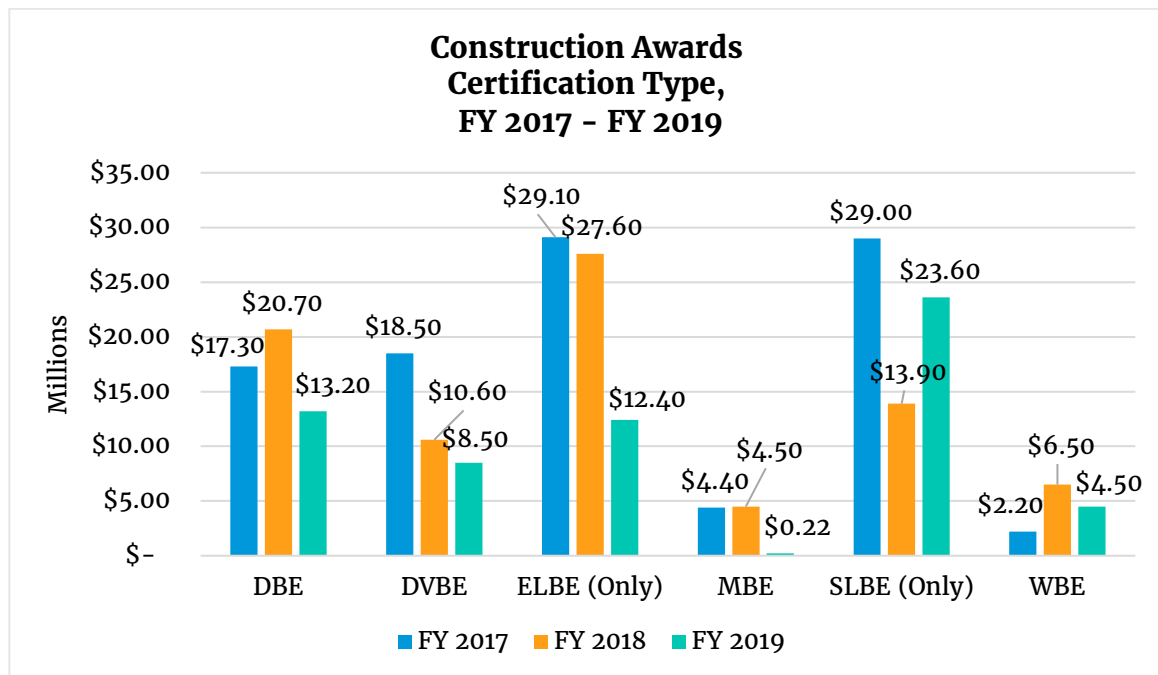


⁶ Percentage is based on cumulative totals for Construction and A&E Consultant contracts that contained SLBE subcontracting program requirements.

Awards to Certified Firms in Construction Contracts Consistent with Previous Years

During FY 2019, PWD issued 97 contracts⁷ totaling \$216.1 million, of which \$47.3 million was awarded to City SLBE or ELBE certified firms. Participation during this fiscal year has increased by 2 percent when compared to FY 2018 and the overall participation achieved exceeded the yearly goal by 5 percent. The City, encourages participation of other types of certified firms on City contracts, outside of those designated in the SLBE program. These certifications include Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), Minority Business Enterprise (MBE), and Woman Business Enterprise (WBE).⁸

The graphs below show the dollar value of construction contracts awarded to the various City recognized certified firms.⁹



Although the SLBE Program is race and gender neutral, EOCP tracks the ethnicity of the majority owner of a business once the bid has been awarded. The diversity of awards based on race/ethnic group for FY 2019 was \$24.5 million. Award dollars to African-American owned firms has increased by 200 percent since FY 2018.

Table 1 below shows the diversity of contract awards for the last three fiscal years for all projects regardless of funding source (City, State, Federal).

⁷ Contracts include major and minor construction contracts, sole source contracts (including emergency), and task orders as defined by SDMC section §22.3003.

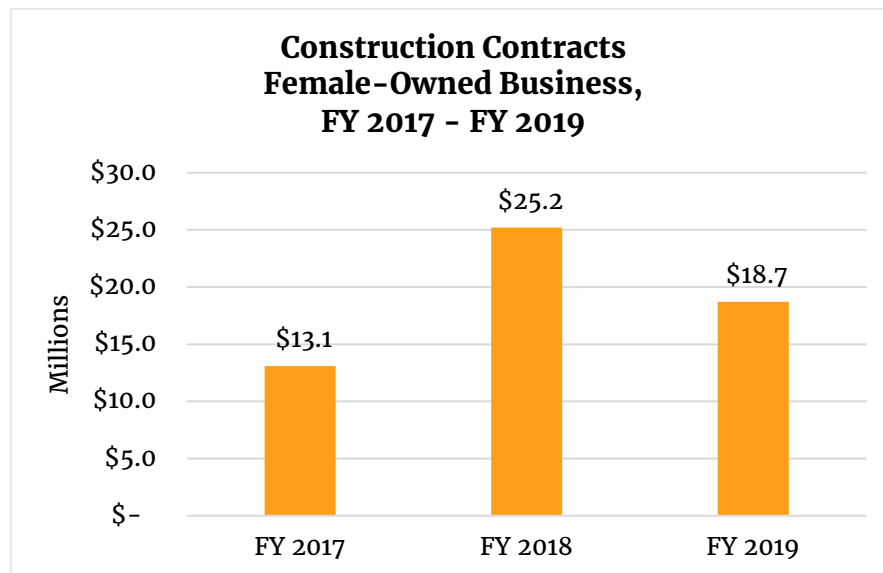
⁸ Certifying agencies for these designations include the California Department of Transportation (DOT); California Public Utilities Commission (CPUC) and California Department of General Services (DGS).

⁹ Information on Construction contract awards is available in table format in Attachment 2.

Table 1

	FY 2017		FY 2018		FY 2019	
Ethnicity	# Awarded	Dollar Amount	# Awarded	Dollar Amount	# Awarded	Dollar Amount
African-American	8	\$941,386	3	\$335,063	5	\$670,024
Asian Pacific	16	\$3,323,986	14	\$11,087,334	6	\$951,155
Asian Subcontinent	14	\$5,991,053	15	\$7,623,710	15	\$5,380,425
Caucasian	570	\$260,857,011	304	\$128,664,579	233	\$78,072,733
Latino	94	\$24,409,051	93	\$57,437,928	90	\$16,842,109
Native American	10	\$382,870	8	\$658,718	9	\$652,354
Unidentified ¹⁰	-	-	181	\$255,061,128	147	\$113,497,131
Total	712	\$295,905,358	618	\$460,868,460	505	\$216,065,931

Participation by female-owned firms during FY 2019 totaled \$18.7 million.



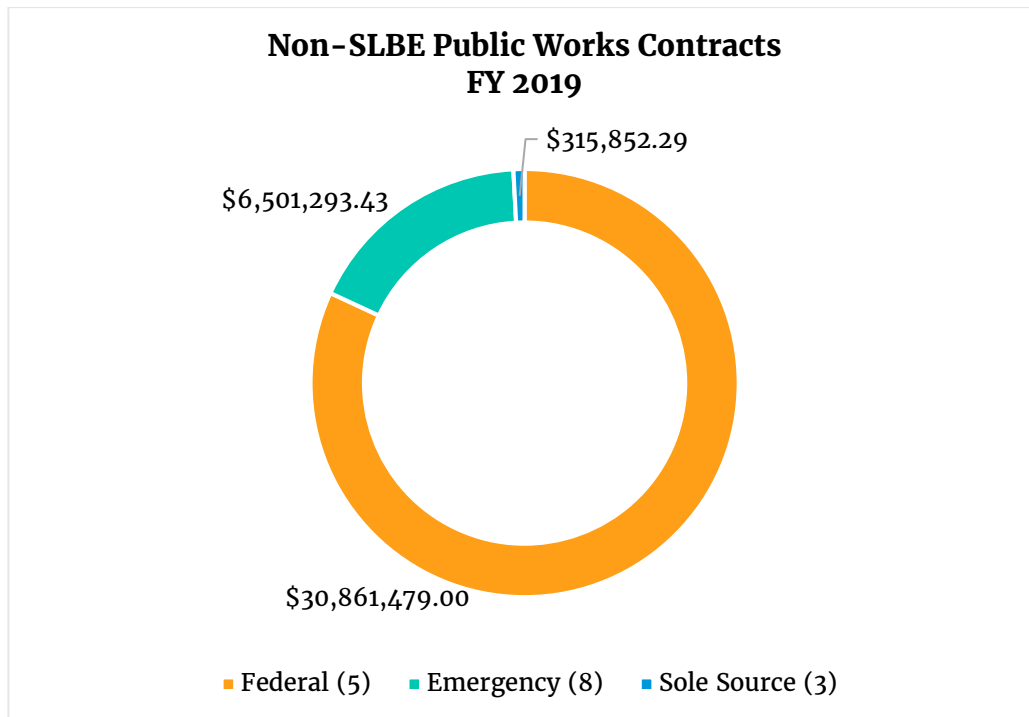
It is important to note that year-after-year comparisons of the awarded dollars during each fiscal year will vary due to several factors, including:

1. Asset Type – The City does not issue the same number of contracts each year for the same type of asset (e.g. surface improvements, water/sewer pipelines, paving, etc.), which impacts the number of available certified firms eligible to participate on City contracts due to the scope of work;
2. Contract Sizing – To protect City interest, larger projects require contractors to have a larger bonding capacity. The larger the contract and bonding requirement, the less likely a smaller firm or qualified disadvantaged business will be able to participate on the contract as a prime contractor; and

¹⁰ This category was created during FY 2018 to capture firms that did not provide demographic information (race and/or gender) for the majority owner of the company. This change was implemented to provide more accurate statistics. Previously, firms that did not provide any demographic information were systematically defaulted to the Caucasian and Male categories.

3. **Funding Source** – The City applies for grants and loans from various State and Federal agencies each year to be utilized for various projects. Each agency may have its own subcontracting program requirements and may impact the type of bidder that will submit a bid for the project and the utilization of the required certified firms. The State and/or Federal agency funds utilized on projects during this fiscal year is discussed later in this report.

During FY 2019, 16 Public Works contracts totaling \$37.8 million were awarded with requirements other than SLBE subcontracting participation. Contracts may be exempt from SLBE requirements if there is an additional funding source (State and/or Federal) or if the contract is considered an Emergency or Sole Source. The breakdown of the 16 projects that were not subject to SLBE program requirements is shown below.



The Federal and/or State funding agencies utilized for Public Works projects during this fiscal year include:

1. Department of Transportation (DOT) - Federal Highway Administration (FHWA);
2. California State Water Resource Control Board (SWRCB) – Clean Water State Revolving Fund (CWSRF);
3. Department of Housing & Urban Development (HUD) – Community Development Block Grant (CDBG); and
4. Cal OES Governor’s Office of Emergency Services – Federal Emergency Management Agency (FEMA).

Each of the agencies above requires their own subcontractor participation program, which precludes the City's ability to incorporate the SLBE Program and mandatory SLBE subcontracting goals. The subcontracting requirements for each of the agencies is as follows:

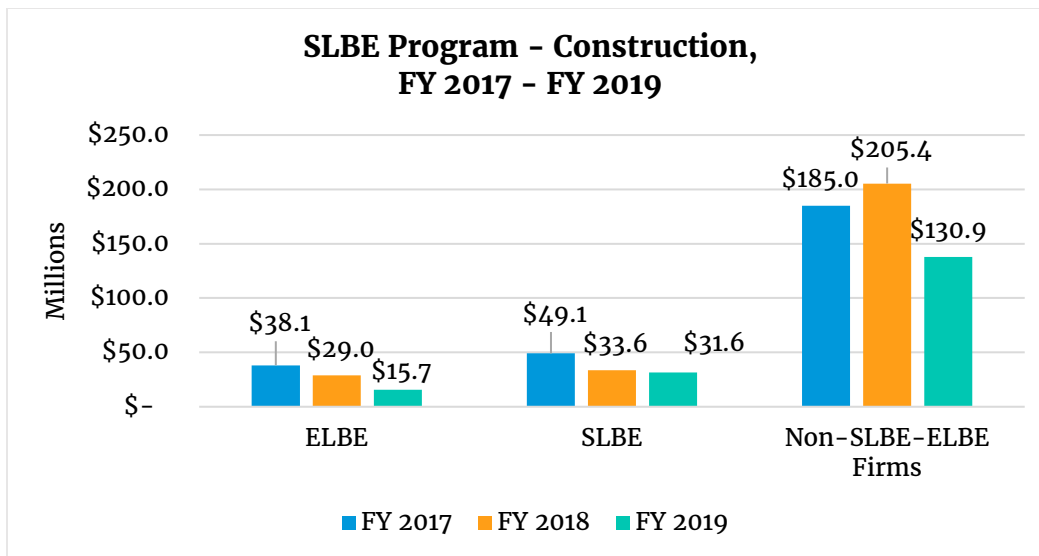
1. Federal Highway Administration (FHWA) – Mandatory DBE goal established based on availability by work category code. Bidder is required to meet the goal or submit good faith effort documentation (GFE);
2. Clean Water State Revolving Fund (CWSRF) – 2 percent MBE; 1 percent WBE subcontracting fair share goal established by Environmental Protection Agency (EPA) for Region 9¹¹. Bidder is to submit GFE documentation regardless if subcontracting goal has been met;
3. Community Development Block Grant (CDBG) – 5 percent Small Disadvantaged Business (SDB); 5 percent Women-Owned Small Business (WoSB); 3 percent HUBZone Small Business (HubZone); 3 percent Service Disabled Veteran-Owned Small Business (SDVoSB) subcontracting fair share goal established by HUD and the U.S. Small Business Administration (SBA). Bidder is to submit GFE documentation regardless if subcontracting goal has been met; and
4. Federal Emergency Management Agency (FEMA) – 5 percent Small Disadvantaged Business (SDB); 5 percent Women-Owned Small Business (WoSB); 3 percent HUBZone Small Business (HubZone); 3 percent Service Disabled Veteran-Owned Small Business (SDVoSB) subcontracting fair share goal established by HUD and the U.S. Small Business Administration (SBA). Bidder is to submit GFE documentation regardless if subcontracting goal has been met.

The remaining 81 Public Works contracts awarded during this fiscal year included 69 major contracts totaling \$178.2 million and 12 minor contracts totaling \$2.2 million. The 69 major contracts identified contained mandatory SLBE subcontractor participation requirements, while the minor 12 minor contracts were restricted to SLBE/ELBE bidders only.

Below is a breakdown of the distribution of contract dollars to City-certified SLBE or ELBE firms, as well as non-SLBE/ELBE¹² firms with respect to these contracts for the last three fiscal years. Due to the prioritization of the Pure Water Program there was a decreased when compared to FY18.

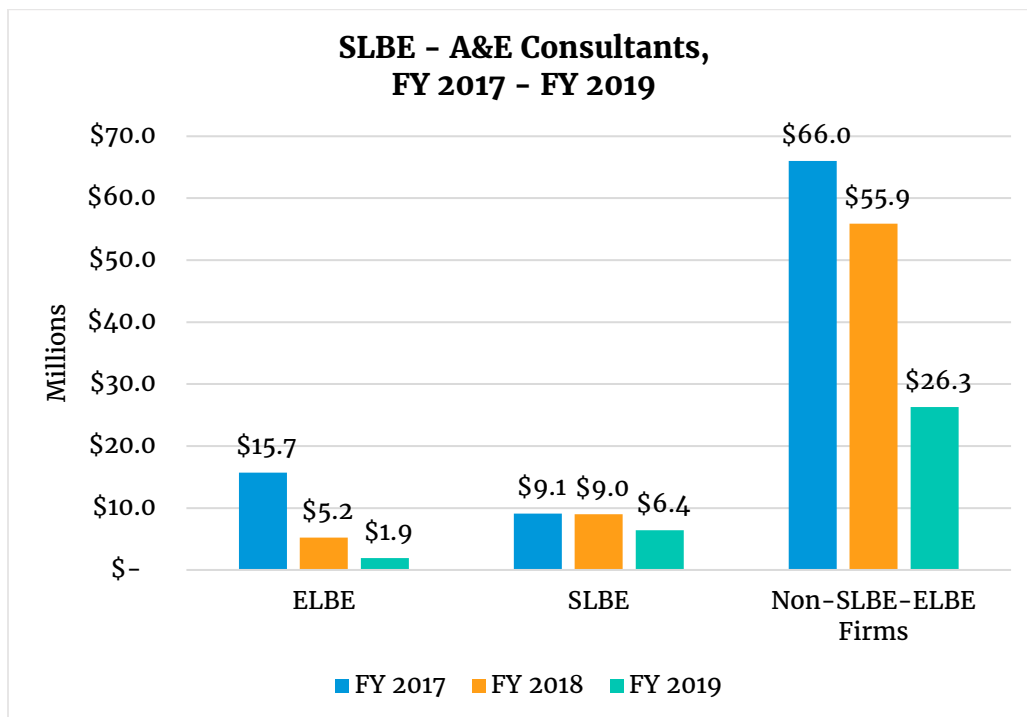
¹¹ EPA Region 9 consists of the following states: California, Nevada, Arizona, and Hawaii.

¹² Non SLBE/ELBE firms include non-certified and other City recognized certified firms.



Architectural & Engineering (A&E) Consultant Contracts

The Public Works Department awarded \$34.6 million¹³ in A&E consultant contracts during FY 2019, of which \$8.3 million¹⁴ went to certified SLBE or ELBE primes or subconsultants¹⁵, shown in the chart below. As previously mentioned, year-after-year comparisons of the awarded dollars during each fiscal year will vary due to asset types, contracting sizing and funding source.



The following chart show the distribution of A&E Consultant contract awards based on certification type for the last three fiscal years.

¹³ Total award amount includes stand-alone contract awards, tasks issued under as-needed contracts, and amendments to contracts previously awarded.

¹⁴ Amount includes awards to both SLBE and ELBE firms.

¹⁵ Information on A&E consultant contract awards is available in table format in Attachment 3.

**A&E Consultant Awards,
by Certification Type,
FY 2017 - FY 2019**

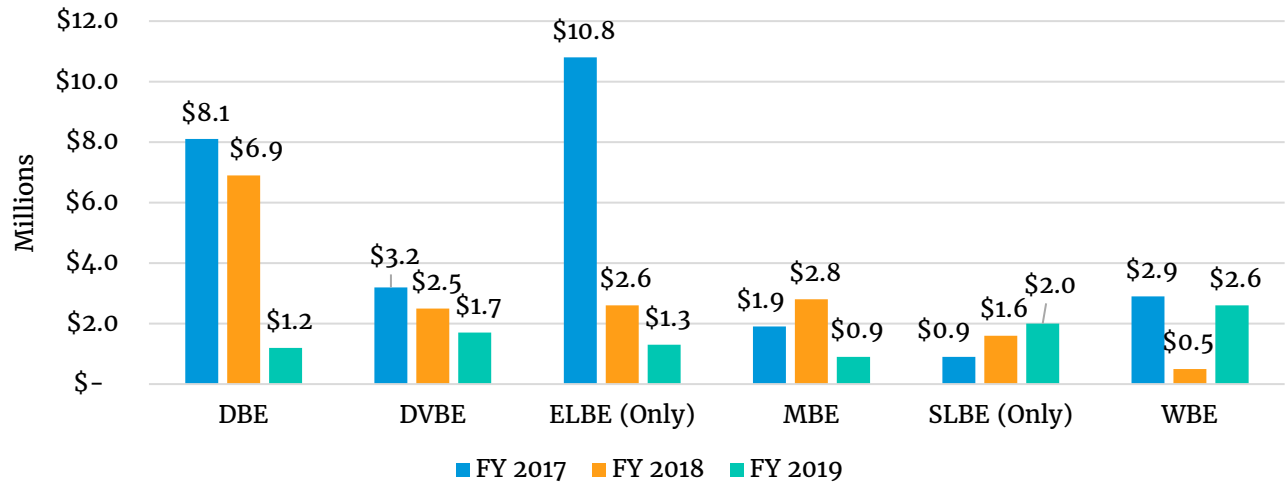


Table 2 below shows the distribution of A&E Consultant contract awards based on ethnicity for the last three fiscal years.

Table 2

Ethnicity	FY 2017		FY 2018		FY 2019	
	# Awarded	Dollar Amount	# Awarded	Dollar Amount	# Awarded	Dollar Amount
African-American	4	\$34,605	3	\$1,657,726	5	\$55,292
Asian Pacific	45	\$7,328,843	19	\$3,207,244	10	\$1,057,367
Asian Subcontinent	0	\$0	1	\$70,000	0	\$0
Caucasian	363	\$77,762,244	118	\$10,487,975	131	\$9,448,622
Latino	50	\$5,320,956	46	\$5,840,851	27	\$1,493,048
Native American	1	\$281,355	1	\$1,120,000	1	\$58,096
Unidentified	-	-	127	\$47,738,425	87	\$22,547,134
Total	463	\$90,728,003	315	\$70,122,220	261	\$34,659,559

SLBE in Goods and Services Contracts

During FY 2019, the Purchasing & Contracting Department issued purchase orders totaling \$344.6 million for goods and services contracts that were formally solicited¹⁶. Of this amount, \$10.4 million or 3.0 percent was awarded to certified DBE/DVBE/ELBE/MBE/SLBE/WBE firms.

Table 3 below depicts the distribution of formally solicited goods & services contracts based on certification type for the past three fiscal years.

Table 3

	FY 2017		FY 2018		FY 2019	
Certification	# Awarded	Dollar Amount	# Awarded*	Dollar Amount	# Awarded*	Dollar Amount
DBE	8	\$392,148	5	\$1,540,338	4	\$467,826
DVBE	3	\$3,196,324	5	\$3,330,511	9	\$2,870,662
ELBE (Only)	3	\$299,712	2	\$160,436	1	\$70,891
MBE	8	\$1,660,248	10	\$5,124,272	16	\$3,192,689
SLBE (Only)	6	\$1,958,304	6	\$2,602,901	9	\$2,609,309
WBE	9	\$1,749,194	11	\$3,310,636	9	\$1,178,178
Non-Certified	409	\$234,208,949	463	\$341,336,150	622	\$334,204,031
Total	446	243,464,880	502	\$357,405,244	670	\$344,593,586

*Number of Awarded Firms

Contract Compliance: Pre-Award Activities

EOCP staff continues to ensure vendors awarded contracts are compliant with the various Municipal Code and Council Policy requirements the EOCP is tasked with overseeing. The pre-award team is responsible for handling the review of all action related documents (Mayoral & Council), analyzing work force reports, equal employment opportunity (EEO) plans, and verifying nondiscrimination in contracting. During the advertisement phase of procurement, the pre-award team is involved in participating in pre-bid/pre-proposal meetings, addressing questions related to EOCP and/or SLBE requirements via addendum, and conducting bid evaluations to ensure compliance with required subcontractor participation requirements based on funding agency.

Table 4 below shows the number of compliance related activities pre-award staff engaged in during the fiscal year.

Table 4

Compliance Activity	FY 2017	FY 2018	FY 2019
Bid Evaluations	146	63	67

¹⁶ Only contracts in which the Purchasing Agent is required to advertise for sealed bids or proposals in the City's official newspaper shall incorporate a 20 percent voluntary SLBE goal and 5 percent bid discount for bids OR up to an additional 12 percent of the total possible evaluation points for proposals based on SLBE participation. Refer to Council Policy 100-10 for SLBE Program applicability.

City Good Faith Effort (GFE) Reviews	15	8	5
Federal GFE Reviews	7	7	7
Pre-Bid/Pre-Proposal Meetings	130	51	44 ¹⁷
Proposal Evaluations	26	31	41
Proposal Interview Panels	8	4	1
Action Documents Processed			
<i>Mayoral Actions</i>	465	450	457
<i>Council Action</i>	229	212	156
Total Actions	694	662	613
Equal Employment Opportunity (EEO) Plan ¹⁸	42	30	41

Equal Employment Opportunity Compliance

During FY19 EOCP staff conducted a compliance review of Stantec Consulting Services, Inc. (Stantec) equal employment practices pursuant to San Diego Municipal Code §22.2707, to ensure that unlawful discrimination is not being practiced and that they have fully implemented their Equal Employment Opportunity Plan. The compliance review was conducted at Stantec's local office on June 4, 2019. The focus of the compliance review was to examine Stantec's employment practices, including hiring practices, promotion, and recruitment.

Stantec provided documentation demonstrating their outreach efforts include active involvement with professional women and minority groups, educational institutions, and professional organizations, including the Society of Women Engineers, National Society of Black Engineers, Project Management Institute, and Society of Hispanic Professional Engineers. Stantec also reiterated their commitment to internal employee growth, training and development by providing information regarding a variety of training approaches and methods, both informal/formal and internal/external. The documentation provided by Stantec during the compliance review indicates they have made a good faith effort to ensure equal opportunities are provided to women and minorities and outreach to underrepresented groups at the local and corporate level.

Contract Compliance: Post-Award Activities

The post-award team of EOCP is responsible for contract compliance monitoring after the award of a contract which includes attending pre-construction/pre-job meetings, conducting site visits/employee interviews, monitoring subcontractor participation levels, monitoring payment of prevailing wages¹⁹, and monitoring apprenticeship utilization.

Staff actively monitors all service related contracts that include prevailing wage requirements and will report any work to resolve any issues including under payments, misclassification of employees

¹⁷ During FY 2018, the Contracts Division of Public Works removed pre-bid meeting requirements from advertised projects, unless needed. This number will significantly decline moving forward, unless pre-bid meetings are applied to all advertised projects once again.

¹⁸ Compliance activity for EEO plan includes request, review, and approval or denial of plan submitted.

¹⁹As of July 1, 2018; EOCP only monitors services contracts subject to prevailing wage requirements. Public Works projects subject to prevailing wage are monitored by the Public Works Prevailing Wage Unit.

or apprenticeship violations prior to engaging the Division of Labor and Standards Enforcement (DLSE).

Table 5 below depicts the compliance related activities conducted by the post-award team:

Table 5

Compliance Activity	FY 2017	FY 2018	FY 2019
Pre-Construction/Pre-Job Meeting	286	280	345
Certified Payroll Reviews	10,347	15,669	2,213
Delinquency Notices Sent	51	67	4
Labor Code Violations			
Labor Code Violations Sent	45	28	0
Labor Code Monies Received	\$114,451	\$51,071	\$3,026
Project Site Visits			
Site Visits Conducted	104	100	0
Employee Interviews Conducted	146	174	0
Monthly Invoicing Reports Reviewed	507	451	14
Monthly Employment Reports Reviewed	1848	1481	0
Final Summary Report (FSR)			
Number of FSRs Received	124	53	108
Number of Verifications Sent	517	442	508
Subcontractor Substitution Requests	8	14	4
Public Contract Code Violations	1	0	1

Citizen's Equal Opportunity Commission (CEOC)

EOCP continues to facilitate the monthly meetings of the CEOC on the first Wednesday of each month at 6:00 p.m. on the 12th floor of the City Administration Building. The Commission is active in the promotion and support of equal opportunity in contracting and continue to provide valuable input with regards to critical policy decisions that impact equal opportunity.

Duties of the Commission include:

1. Monitor and/or evaluate the City's Equal Opportunity Program;
2. Advise the Mayor, City Council, Civil Service Commission and other appropriate agencies of City government on a continuous basis;
3. Submit written reports to the Rules Committee and City Council for review;
4. Assist in the recruitment of competent historically under represented individuals and/or businesses, women and persons with disabilities, and

5. Promote the City as an Equal Opportunity Employer to individuals and firms desiring to contract with the City.

During this fiscal year, CEOC had seven commissioners serving the commission. Currently two advocacy positions remain to be filled: Native-American and Disabled. Staff is working with the Mayor's Office of Boards and Commissions to fill all vacant positions.



Conclusion

EOCP is proud of the progress that has been made during this fiscal year. Staff will continue to work closely with all vendors (construction, consultant, and goods & services) to promote and ensure equal opportunity, economic development, and inclusionary practices via outreach and education. EOCP is also leading the disparity study efforts and will provide an update during FY20 report.

City Strategic Plan Goal(s)/Objective(s):

Goal # 3: Create and sustain a resilient and economically prosperous City.

Objective # 3: Diversify and grow the local economy.

Fiscal Considerations:

N/A

Charter Section 225 Disclosure of Business Interests:

N/A

Environmental Impact:

N/A

Equal Opportunity Contracting Information (if applicable):

N/A

Previous Council and/or Committee Actions:

N/A

Key Stakeholders and Community Outreach Efforts:

N/A

Kristina Peralta

Director, Purchasing & Contracting

Jeff Sturak

Deputy Chief Operating Officer,
Internal Operations